

## **REMARKS**

### **I. Amendments**

By this amendment, claims 17, 19, 25-28, 33 and 34 have been amended.

This amendment adds no new matter to the specification.

### **II. Request for Consideration of a Previously Submitted Information Disclosure Statement**

On March 11, 2003, Applicants submitted an Information Disclosure Statement to disclose four references B1-B4. Applicants previously requested the Examiner's consideration of that IDS.

The Examiner has indicated that a copy of the previously submitted Information Disclosure Statement was not in the files. Accordingly, Applicants now provide a copy of that IDS as attached Appendix A. Consideration and entry into the record is respectfully requested.

### **III. Acknowledgement of the Allowable Claims**

Applicants hereby acknowledge the Examiner's indication of the allowability of claims 1-16 and 18, but request that the Examiner review the claims in light of the March IDS (as indicated in Sec. II above) to confirm their allowability.

#### **IV. Discussion of the Rejection under 35 U.S.C. Sec. 112, Second Paragraph of Claims 17, 19, 25-28, 33 and 34**

Claims 17, 19, 25-28, 33 and 34 have been rejected under 35 U.S.C. Sec. 112, second paragraph as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. Specifically, the Office Action stated that use of the term “prodrug” is indefinite.

By this amendment, the term “prodrug” has been modified in the claims 17, 19, 25-28, 33 and 34, by the addition of a more descriptive phrase. The inserted phrase is supported by the specification at page 119, line 1 – page 120, line 16, and describes modifications of the further substituents of rings A, B and C. Applicants submit that the claims as amended are not indefinite.

Therefore Applicants request withdrawal of the 35 U.S.C. Sec. 112, second paragraph rejection of claims 17, 19, 25-28, 33 and 34.

#### **V. Discussion of the Rejection under 35 U.S.C. Sec. 112, First Paragraph of Claims 17, 19, 25-28, 33 and 34**

Claims 17, 19, 25-28, 33 and 34 have been rejected under 35 U.S.C. Sec. 112, first paragraph as allegedly lacking enablement for prodrugs.

Applicants wish to point out to the Examiner that this rejection appears to have been made twice (points 6 and 7 of the Office Action).

By this amendment, the term “prodrug” has been modified in the claims 17, 19, 25-28, 33 and 34, by the addition of a more descriptive phrase. The inserted phrase is supported by the specification at page 119, line 1 – page 120, line 16, and describes modifications of the further substituents of rings A, B and C. Applicants submit that the claims as amended are enabled.

Therefore Applicants request withdrawal of the 35 U.S.C. Sec. 112, first paragraph rejection of claims 17, 19, 25-28, 33 and 34.

## **VI. Discussion of the Rejection under 35 U.S.C. Sec. 112, First Paragraph of Claims 25-28 and 34**

Claims 25-28 and 34 have been rejected under 35 U.S.C. Sec. 112, first paragraph as allegedly lacking enablement for treating diseases other than cranial trauma. Applicants respectfully traverse the rejection, as Applicants believe that their specification provides adequate support for their invention as set forth in the pending claims as amended.

### *Claim 28*

Once again, Applicants note for the record that independent claim 28 is directed to a method for inhibiting lipid peroxidation. This claim is enabled by an experiment which studies the effect of the compounds of the present invention on lipid peroxide peroxidation, provided on page 188, line 25 – page 190, line 5 of the specification. The results show that lipid peroxidation inhibition could be effected with compounds of the present invention. Applicants do not believe that any of the Examiner's comments under point 8 on pages 12-16 of the Office Action apply to independent claim 28, and therefore do not believe that it should have been included in this rejection.

As to the diseases and conditions of claims 25, 26, 27 and claim 34, Applicants believe these claims are adequately supported by the specification as well, since lipid peroxidation inhibitors can be useful to treat the recited diseases and conditions, as is understood by those skilled in the art. On page 7, line 6 – page 8, line 6 the relationship of lipid peroxidation inhibition to the recited diseases and conditions is discussed.

Since the Examiner appears unconvinced of the relationship, further evidence of the enablement of method of treating claims 25-27 and 34 accompanies this response in the form of scientific articles which describe the relevance of inhibition of lipid peroxidation to the recited conditions. The correlation of the exemplified assay and conditions treated in each of the rejected method claims 25-27 and 34 will be discussed separately below.

#### *Claim 25*

Independent method claim 25 is directed to treatment of cerebrovascular impairment. Applicants respectfully request that the Examiner consider the article entitled “Involvement of Lipid Peroxidation in CNS Injury” in Journal of Neurotrauma by Braugher *et al.* as supportive of the enablement of claim 25. This article was submitted as a supplemental reference in Appendix A with the previous response. The top of each page of the article was specifically labeled with the serial number of the present application, to ensure that the article did not get separated from the previous response. However, it does not seem that the Examiner has considered the reference, as there was no mention of it in the Office Action. Should the article be missing from the file, the Examiner is requested to contact Applicants’ attorney so that it can be faxed for consideration.

#### *Claim 26*

Independent method claim 26 is directed to treatment of dysuria or urinary incontinence. To support the correlation of inhibition of lipid peroxidation and dysuria or urinary incontinence, Applicants respectfully request the Examiner’s consideration of the article entitled “Protective Effect of Vitamin E on the Response of the Rabbit Bladder to Partial Outlet Obstruction” by Parekh *et al.* in The Journal of Urology submitted in attached Appendix B.

#### *Claim 27*

Independent method claim 27 is directed to a method of treating restenosis. To support the correlation of inhibition of lipid peroxidation and restenosis, Applicants respectfully request the Examiner’s consideration of the article entitled “Oxidative Stress, Nitric Oxide and Vascular Disease” by Jeremy *et al.* in J. Card. Surg. submitted in attached Appendix B.

#### *Claim 34*

Independent method claim 34 is directed to a method of treating neurodegenerative disease. To support the correlation of inhibition of lipid peroxidation and neurodegenerative disease, Applicants respectfully request the Examiner’s consideration of the article entitled “Oxidative Stress in Parkinson’s Disease” by Jenner in Annals of Neurology and “Oxidative Injury in the Nervous System” by Delanty *et al.* in Acta Neurol. Scand., both submitted in attached Appendix B.

Since scientific research cited herein demonstrates links between inhibition of lipid peroxidation and the presently claimed methods for treating certain conditions, Applicants respectfully submit that the claims 25-27 and 34 are adequately enabled. As previously stated, claim 28 apparently should not have been included in this rejection, as none of the comments apply to it.

Therefore Applicants request withdrawal of the 35 U.S.C. Sec. 112, first paragraph rejection of claims 25-28 and 34.

#### **VII. Discussion of the Second Rejection under 35 U.S.C. Sec. 112, First Paragraph of Claims 25-28**

Claims 25-28 have also been rejected under 35 U.S.C. Sec. 112, first paragraph as allegedly lacking enablement for preventing any diseases. Applicants respectfully traverse the rejection.

Once again, Applicants note for the record that claim 28 as originally filed does not contain the term “preventing” and therefore should not be subject to this rejection.

In the previous amendment, “preventing” was deleted from claim 26, so it also should not have been included in this rejection either.

By this amendment, the phrase “preventing or” was deleted from claims 25 and 27, rendering the rejection moot.

Therefore Applicants request withdrawal of the 35 U.S.C. Sec. 112, first paragraph rejection of claims 25-28.

### VIII. Conclusion

Reconsideration of the claims and allowance is requested. Should the Examiner believe that a conference with Applicants' attorney would advance prosecution of this application, the Examiner is respectfully requested to call Applicants' attorney at (847) 383-3391.

Respectfully submitted,

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